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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/370,648	08/06/1999	ROBERT LINLEY MUIR	2741/FBR(031035-87549)	8315

26304 7590 08/26/2003

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NEW YORK, NY 10022-2585

EXAMINER

HOTALING, JOHN M

ART UNIT	PAPER NUMBER
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3713

DATE MAILED: 08/26/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/370,648

Applicant(s)

MUIR, ROBERT LINLEY

Examiner

John M Hotaling II

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 June 2003.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 171-200 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 171-200 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 171-200 are rejected under 35 U.S.C. 103(a) as being unpatentable over Berg et al US Patent 5,779,545 in view of Schneier et al US Patent 5,871,398. Berg discloses all of the instant application with respect to the transferring of game information over a network and the use of a random number determining a game output. However, Berg lacks in disclosing that the medium where the game information (random number seed) is transferred to is a smart card or a smart card chip. Instead, Berg discloses in column 3 that the general manner of constructing a program to control a microprocessor so as to permit a user to play various games and output results is well-known in the art. Further, motivation to provide other communication means can be found in column 3 lines 44-46 where the communications device 114 can be any of a plurality of devices known to those of skill in the art for receiving data communication and placing it in a format suitable for transmission to the microprocessor 108. In an analogous invention to Schneier a gaming machine that enables play of the machine on a remote computer by transferring authenticatable game authorization messages (AGAM) to the game machine. Schneier discloses in column 14 lines 12-33 the AGAM

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may be written to memory in the smart card, the player puts the smart card in the machine and the machine reads the message. Schneier also discloses other methods of transferring AGAM to the machine such as a modem. It would be obvious to one of ordinary skill at the time of the invention to combine Berg and Schneier in order to have a distributed game system where the random number seeds could be securely transferred to a game machine on a smart card. The motivation to combine the references as stated by Berg that the communications device 114 could be any of a plurality of devices known to those of skill in the art for receiving data communication and placing it in a format suitable for transmission to the microprocessor 108 which is what the smart card of Schneier does.

Response to Arguments

2. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Citation of Pertinent Prior Art

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Walker et al '640 discloses a off line remote lottery system that uses smart cards with game chances

Belamant '898 discloses using a smart card to control a game

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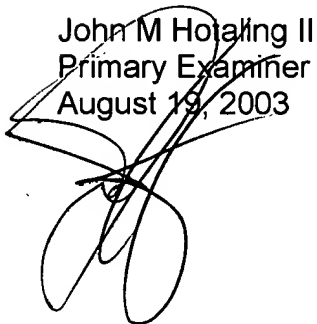
Conclusion

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John M Hotaling II whose telephone number is 703 305 0780. The examiner can normally be reached on Mon-Thurs 7:30-6.

John M Hotaling II
Primary Examiner
August 19, 2003

A handwritten signature in black ink, appearing to be 'John M Hotaling II', is written over the typed name and date. The signature is stylized with large loops and a long horizontal stroke.